



CITY OF DANBURY

155 DEER HILL AVENUE
DANBURY, CONNECTICUT 06810

ZONING COMMISSION
www.danbury-ct.gov

(203) 797-4525
(203) 797-4586 (FAX)

(REVISED) MINUTES NOVEMBER 16, 2021

The web-based meeting (hosted on Zoom) was called to order by Chairman Theodore Haddad Jr. at 7:22 PM. He explained that although the meeting was scheduled to begin at 7:00 PM, they were running behind because a City meeting that was held this afternoon was hacked, so extra precautions had to be taken tonight to be sure it did not happen again.

Present were Sidney Almeida, Candace Fay, Ryan Hawley, Angela Hylenski, Rick P. Jowdy, James Kelly, Michael Masi, Robert Melillo, Theodore Haddad Jr., and Alternate Jason Eriquez. Also present was Planning Director Sharon Calitro, and Assistant Corporation Counsels Daniel Casagrande and Robin Edwards.

Absent were Alternate members Nelson Merchan and Thomas Nejame.

Mr. Melillo led the Commission in the Pledge of Allegiance.

CONTINUATION OF PUBLIC HEARING:

Petition of 3 Lake Avenue Extension LLC to Amend Sections 2.B., 5.B.2.b.(19), and 5.B.5.g. of the Zoning Regulations. [Amendments to existing definitions, defining a new use ("transitional shelter for the homeless"), & adding this new use as a special exception use to the CA-80 zone.]

Chairman Haddad said they had read all of the letters in support at the last meeting, but there was one that came in by e-mail right before the start of that meeting. He then read this last letter in support from Gina Sierra. He then started reading the letters in opposition from the following people:

Jeff Berlant	Kate Dullard
Robert Steinberg	Mary Ellen Egan
Jean Anthony	Tanesha Freeman-Kerr
Peggy Stewart	Keith & Antoinette Gustavson
Alan & Donna Barsky	Elizabeth Magnotta
Richard Antous Jr.	Matthew Orr
Thomas Goddard	Timothy Shortal
Greg Davis	Westville Commons HOA

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2021 NOV 29 P 12:09

BY: 

Ernie Parker (e-mail forwarded from Councilman Paul Rotello)
Eileen Curran (noting that their on-line petition has 1,508 signatures)

Chairman Haddad noted that letters in opposition from Diana Clarke & Bianca D. were read at the 11/9/21 meeting. He then read a form letter into the record noting that the following people had submitted them:

Carol Arconti	Robert Arconti	Shannon Burkey
Gary Cappoziello Jr.	Robert Coons	Michael Donigan
Anna Filomio	Elizabeth Guidera	Shannon Hawley
Sara Jerace	Andrew Jesser Jr.	Andrew Jesser Sr.
Ryan Litwin	Alexa McCarley	Monica McCarley
Jairo Nuñez	Ramon Nuñez	Matthew Orr
Darwin (?) Quito	Brian Rosler	Lauren Venturini

He then read a form letter specifically from Housing Authority residents and noted that the following people had submitted the letters:

Ana Sanchez	Andreisy Medina
Awilda Lopez	Carolina Gonzalez
Cean'sol Reymoso	Delia Rogers
Essie Anderson	Holly Creamer
Katherine Espinoza	Kellie Vasquez
Marina Aracena	Melina Urena
Nancy Terry	Nomar Uceta

Chairman Haddad then said they have received over 741 pages of exhibits both in favor and in opposition. He then asked Assistant Corporation Counsel Dan Casagrande to speak regarding the information submitted by the applicant on November 15, 2021.

Attorney Dan Casagrande said Attorney Hollister had submitted a possible revision dated 11/15/21 to the original amendment language they had proposed. He said it appears that this additional language is intended to further reduce the number of potential sites in the CA-80 zone that this use could be put on. He said he would recommend that the Commission not consider the additional language because it was not part of the original submission. He said the applicant says this is a minor change but if they accept this and the opponents appeal the decision, the courts would nullify this entire process and remand it back to the Commission for re-hearing. He said his opinion is that the Commission may determine that it is more prudent not to entertain these amendments. He continued saying that this submission also included a possible security plan, but that is superfluous since this is proposed as a special exception use, and the Planning Commission has the authority to impose this type of condition on an approval. He said the Commission can reasonably conclude that there is no real purpose to the proposed amendment and it is too late in the process to substantial changes. He said in his opinion it is reasonable to decline to entertain these amendments. Chairman Haddad asked him if they need to deal with this now or later. Attorney Casagrande said if the Commission addresses this now, then they won't have to entertain comments on these changes.

Mr. Melillo said this Commission has a history of disregarding proposed revisions that were far less substantive than this. He said he would prefer to move forward with the petition

as originally submitted. Chairman Haddad asked the Commission members for their opinion on whether they should consider the revisions. Mr. Masi and Mr. Almeida both said they agreed with Mr. Melillo. Mrs. Fay said she would agree that they should let these remain as an exhibit but to not consider them when making their decision. At this point Mrs. Calitro pointed out that as suggested in the Planning Department staff report, the Commission had already agreed to allow the addition of language that would limit this use to being the only one on the site. Mr. Melillo pointed out that the Planning Commission had also included that suggestion in their recommendation. Chairman Haddad said they would include the one use on the site amendment, but they would not be considering the amendment proposed by Attorney Hollister in the 11/15/21 submission. He then asked if anyone wanted to speak in opposition to this petition and several people indicated they wanted to speak.

Paul Rotello, 13 Linden Place, Councilman for the sixth ward, said the petitioner still needs to make the argument that the existing zones in the City are not adequate to address the needs of the homeless and that his petition is the remedy for that issue. He said all that has been presented is a reaction to a business that wants to be located in a zone that does not permit it. He said the petitioner should withdraw since the Governor's order has been extended another ninety days. He said he does not see the urgency in getting this done. He added that regardless of the decision this Commission makes, this will end up being litigated in court.

Ben Doto, 17 Ridge Road, said he had spoken at the September 28, 2021 meeting. He thanked everyone for their participation in this and said this has been an eye-opening experience for most of these people. He mentioned the latest report from Chief Ridenhour and asked that the Commission make sure they review it. He said the neighbors have been patient for over a year as their complaints went unanswered and that is why they formed the website. He said he personally has submitted photos showing the criminal acts which include trespassing and loitering on private property, drugs sales and use, and prostitution. He said it is inappropriate to criticize Mr. Batista for what happens on his property. The uses that are there are being criticized but there were in operation long before he purchased the property after years of successfully running his Dunkin Donuts there. He said the bottom line here is that this applicant purchased this property in a zone where this use is not permitted. They bought it because the State gave them the money. He said they do not like the term mega-shelter but it feels like the "super Walmart" of homeless shelters. He said this is spot zoning and the proposal to add language to limit this to Exit 4 proves that. He said the applicant saying this is "unappealable" shows complete disregard for everyone who lives in Danbury. He then said he had a short video from Lucia Cantarinha who lives at 165 Westville Avenue Extension, telling of her experience with finding a homeless person in her back yard. She stated that it was scary and she no longer feels safe in her home. He noted that Bianca DiMasi had mentioned her wanting to speak at the previous meeting.

Robert Binnette, Fairlawn Avenue, said he is opposed to this but has not before publicly expressed his opposition. He said he and his wife have donated money many times in an effort to help those less fortunate than themselves. He added that the real question here is difference between the price of this shelter versus the cost it will have on the residents of this area.

Robert Steinberg, said there have been more than substantial reasons presented for this Commission to make their decision. He said once the nine legal shelters in Danbury all return to providing full service to the homeless, there will be no need for this shelter.

Mr. Melillo asked Chairman Haddad if this petition had been sent to the regional planning agency (WestCOG). Mrs. Calitro said it was not because it was not required by Section 8-3b of the General Statutes. Mr. Melillo said he had wondered what they would have said in their report.

Jeff Berlant, Fairlawn Drive, thanked the Commission for giving the community the chance to speak on this issue. He said they all tried to be clear and concise so as not to be considered "anti-homeless". He asked that the Commission consider the impact this has already had on the community and also asked that they protect the children in this area. He said he is proud that Danbury is considered a top community to live in and does not want to see that change.

Pastor Darrick Johnson said he is again representing his parents who still live in this neighborhood. He said he had re-watched all of the videos and found it interesting what the applicant was not saying. He said regardless of their credentials, they have no idea of how to make things better. They are not saying that they don't care about what is going on, they are just not acknowledging it. He said he is offended by this process and offended that the residents in this area are not being considered in making this major decision that will impact their daily lives. He said he agrees with their intentions, but is offended by their methods and the fact that they are not using the resources that the City already has in place to help the homeless. He asked if this will hurt more people than it helps.

Luciana Shortal Edgewood Street, said they still have not gotten a straight answer regarding the timeline of Pacific House's involvement in the shelter operation. It seems that effort has been made to obfuscate their involvement. She then shared her screen to present two pie charts reflecting the breakdown of those who have spoken and those who have written letters both in support and opposition. She said this shows the voice of the people of Danbury and the majority feel this is the wrong size and the wrong place for this shelter. Mr. Hawley (through the Chair) thanked Ms. Shortal for this very graphic presentation of the support and the opposition.

Eileen Curran said when they decided to set up their website, their intention was to make the citizens of Danbury aware of what was going on with this shelter. She said their coalition began out of concern for the future of their neighborhoods and the impact on the children who live in this area. She thanked the Commission for their time and patience in listening to both sides. She said they did not anticipate the public shaming that the people in support and the applicant have inflicted on them. She continued saying that the petition in opposition now has 1,588 signatures and the more the community finds out about it, the less they agree with the application. She said through the website they had requested an independent service assess the negative impact and danger to the children in the surrounding communities but that has not yet happened. She said their target audience was always only Danbury residents and cited the numbers of signatures from the surrounding towns noting that a significant majority of signatures are from Danburians. In closing, she asked that the Commission deny this application and use the proper due process to find a location that is best suited for this use.

Mr. Jowdy (through the Chair) requested that all speakers state their name and address for the record.

Mark Nolan, 37 Brushy Hill Road, said he has spoken at the previous meeting and all of the information that has been discussed regarding the homeless and affordable housing is available to everyone through the City and State websites. He said regardless of what has been said by the applicant, there are 174 beds included in this proposal and that is just too many for one location. **He referred to the CityCenter letter which pointed out the number of Fire and Police calls to Dorothy Day. He said Dorothy Day was not a safe site; too many incidents took place there and now the same thing is happening at the Super 8 site, and will continue to happen.** He briefly explained how the CAN (Coordinated Access Network) system works; a person in need calls 211 info line and is referred to the nearest shelter that has space for them. He said the State has a tremendous amount of money available to address homelessness but it still is a problem. He said this proposal is just too large to control. He pointed out that between 2007 and 2011 the number of homeless in Danbury actually decreased because of all the efforts to address it. Mr. Melillo asked if the number of police calls to Dorothy Day was broken down between the soup kitchen and the actual shelter. Mr. Nolan said he was not sure because all of the calls came in under the same physical address. He then said Danbury has approved shelters and facilities that work and this proposal should not be the answer to the regional homelessness problems.

Attorney Ellen Van Dyke Bell, Driftway Road, said she ran for a City Council seat during the recent election and while she was out campaigning, she heard what the residents had to say about this issue. She said she has worked in the office of the Assistant District Attorney in Manhattan, New York, and is now working as a conservator and guardian of people who have mental health issues. She said she has asked many of the Mill Ridge residents how they felt about this shelter and most of them had a problem with it being located so close to their homes. She said the senior citizens are now afraid to go outside because they have seen people urinating on their lawns, which never happened before the shelter was put into the Super 8. She said people now keep their blinds closed all of the time because there are strangers wandering about their properties and staring into their windows. A young mother leaving to take her child to school found a man passed out on her doorstep. She said she had heard so many examples of how these homeless people have disrupted and disturbed this area's daily life that she had to share them with this Commission. These examples also included drug deals, drug usage, and prostitution acts, so much so, that parents no longer allow their children to walk around the neighborhood or even to walk themselves to school. She said the location of the shelter at the Super 8 has affected the quality of life in the Mill Ridge neighborhood, as well as the other neighborhoods in the area. She said all of this brings about the question of if this shelter is really addressing the needs of the homeless versus just providing them a place to sleep. She added that the people who should have been heard were not given the opportunity to speak. Lastly, she pointed out that if a parent exposes a child to drugs or other inappropriate behavior, the government can step in and take the child away from the parent to protect them, so what gives this place the right to expose children to all of these inappropriate behaviors. She added that she is speaking tonight for all of those who did not feel capable of speaking or were just afraid to say anything.

Barbara Davis, 15 Ridge Road, said what Attorney Bell has said is more compelling than anything she could have said. She said there are so many flaws in what the applicant has

presented and so many unanswered questions. She added that it is horrifying to hear that the residents of Mill Ridge feel so threatened and afraid.

Patrick Heron, Fairlawn Avenue, said that this issue deserves a public meeting. He said the possible permanent location of this shelter on this site is not a very popular idea and should not be allowed to happen. He said the sheer number of people that have written letters or spoken in opposition as well as the facts presented regarding the impact on emergency services in the City proves that this does not belong here.

Rachel Halas read a prepared statement and said the Regulations should not be amended and this should not be approved for many reasons which have been stated throughout this public hearing. She said if this is approved, the Emergency Medical Services on the west side will be overburdened. She said innocent people will be put at risk and property values will be affected. She said this is the reality since Pacific House has taken over running the shelter. She spoke about the increase in drug activity and said a woman died in the shelter of an overdose. She continued saying that no matter what the Police do, they cannot stop these negative behaviors. She said panhandlers have flooded the businesses in the area and you cannot get gas, or go to McDonalds or Dunkin Donuts without being approached by a homeless person asking you for money. She reiterated a lot of what she had said she experienced as a police officer in dealing with the homeless. She said this shelter is a complete and utter burden to the emergency medical staff in the City. She said there is a sign on the door of the shelter saying that the curfew has been changed to 7 PM instead of the previous 9 PM and this is because the staff cannot control all of the problems caused by the residents in the shelter. In closing she said that she knows those who are being asked to vote in favor of this, know that it is the wrong thing for Danbury.

Tom Michael, Claremont Avenue, said he is a retired Danbury Police Officer and he had spoken at the previous meeting. He said he is here tonight because he received an e-mail from Ted Zielinski, also a former Danbury Police Officer who retired after 25 years. Mr. Zielinski asked him to read the e-mail into the record. After retiring, Mr. Zielinski went to work for the Danbury Housing Authority and his office window overlooked the parking lot across the street from the Super 8. He said he observed drug transactions and drug use blatantly being done and the fence that separated the motel property from the abutting properties was dismantled piece by piece until it no longer existed. He said when he saw the homeless loitering on the laundromat property and indulging in inappropriate behaviors, he realized that the children who reside in the Mill Ridge neighborhood are witnessing this on a daily basis. He said he is not opposed to the shelter but it is too big and too close to an area that is already known for drug activity. Mr. Michael then said in his opinion the shelter needs to be able to provide an outdoor area so their residents do not congregate and loiter on the grassy area of the exit ramp or wander about the other residential neighborhoods in this area of town. He added that the general public and the business owners are reluctant to report the illegal activities for fear of retaliation from the homeless who have nothing to lose. In closing he said this is just too close to two schools and he is concerned for the children who live in this area. He asked that the Commission not disregard all of the facts that have been presented; as this is not the proper location for this shelter.

Jim Nolan said he had spoken at the previous meeting and the reason he submitted copies of the CityCenter letter was to have it in the record how very detrimental to the area the Dorothy Day shelter was. He said many people volunteered at Dorothy Day because it was

serving the homeless population of Danbury, but over the years, that changed. He said more and more people were coming into Danbury from out of town because they knew they would not be turned away at Dorothy Day, but all of the negative behaviors made it impossible for it to continue as a small local shelter. He cited the testimony presented by Ernesto Rodriguez, who grew up on Spring Street. He said his family lost the Main Street Subway as a tenant because the clients from Dorothy Day would use their rest rooms to bathe among other activities. Subway just did not want to deal with it any longer so they left. He said in response to Mr. Melillo's inquiry, the police and emergency calls to Dorothy Day were split between the soup kitchen and the shelter. He said there were untold extracurricular activities occurring in that operation and he is talking about it because he sees history repeating itself in this west side location. He said the shelter operation at Dorothy Day lost in court but the soup kitchen is still in operation. The statement has been made that this west side shelter is no worse than the Spring Street operation, but this is an unacceptable comparison. Dorothy Day cost the downtown a lot of business and do we really want to repeat this on the west side. He questioned if the CDBG (Community Development Block Grant) funding should have been available since this site is not in compliance with the local zoning ordinance. He asked how the City Council could approve the use of this money before this site was brought into compliance with Zoning. In closing, he said he has spent his whole life and professional career in Danbury and he is overwhelmed by the outpouring of people speaking about this issue.

Juanita Council said she grew up in the Mill Ridge neighborhood and still resides and works there. She said she is employed as a school crossing guard and she is worried about the children in this area being exposed to all of the negative behaviors that the shelter has brought to this area.

Attorney Neil Marcus, Cohen & Wolf PC, said he is representing the E.W. Batista Family Limited Partnership, who owns the property that is the site everyone has mentioned where the homeless hang out when they cannot get into the shelter. He said at the previous meeting, he had laid out the legal reasons why this should not and cannot be approved. He said this proposal is a blatant example of spot zoning as well as contract zoning. The fact that the applicant is attempting to change the language of the proposed amendment shows that it is flawed. He said the number of people who have come out in opposition to this application as well as the 1,500 signatures on the **opposition's** petition should prove to the Commission that this is not a good thing for Danbury. He said the applicant has failed to show that there are not zones in the City that can accommodate this use. He continued saying that this application is an attempt to shoehorn the use of a building that is available but shouldn't be in this zone. He said this proposal is not the best we can do for the homeless. He mentioned that the Fantasy Island business and the liquor store which are located on his client's property have both been in operation for over forty years and never had any police calls to their sites. He said both of these businesses are struggling to survive because of the new neighborhood that has been created around them. He said he is in favor of providing affordable housing and shelters for the homeless, but he is opposed to bad zoning which this application is. He added that there are opportunities available for other sites in more appropriate neighborhoods and funding is available, but this proposal for a mega shelter is too big and in the wrong zone. He said smaller shelters are more manageable and that is what they should be looking to create. This is the wrong neighborhood for this proposal.

Ben Chianese, 5 Briar Ridge Road, also a City Councilman for the sixth ward, said he had spoken at the previous meeting but had a few more thoughts he wanted to share. He said this is just bad zoning. This application should be withdrawn to allow City leaders to come up with a more workable plan to address the City's homeless. He said there is a vacant 20-room single occupancy shelter for sale on Elm Street and there are other areas of the City that are properly zoned for this use. He said when this was brought before the City Council, they were told that Pacific House was going to come back to them with an operations plan and that has not yet happened. He said this Commission should not pass this until there is a contract in place between the City and Pacific House. Lastly, he pointed out that since the Governor's Executive Order has been extended, they have the time to do this the right way.

Chairman Haddad asked if there was anyone else to speak in opposition and there was no one. He then offered Attorney Hollister the chance to present his rebuttal comments. Attorney Hollister said he would rather wait until the next meeting since they had spent this whole meeting listening to opposition and he wants to be able to properly address all of the comments. He added that he has sat through over ten hours of opposition and he needs time to digest it and decide how best to address it.

Chairman Haddad said he had mentioned earlier in this meeting that they had scheduled an emergency meeting for this Thursday night, so they will allow Attorney Hollister to present his final rebuttal comments at that time. Mr. Melillo asked as a point of order that there be no new information presented, Attorney Hollister's comments must only address the oppositions comments. Chairman Haddad said that is correct; they would hear the final rebuttal comments from Attorney Hollister, possibly defer to staff for any comments and then they would close the public hearing.

Attorney Hollister said if they wait until the Thursday night or even next Tuesday night, he would limit his rebuttal comments to 45 minutes. Chairman Haddad said that is not necessary, since no one who has spoken so far has had any time limit. He then asked the Commission if there were any other comments. Mr. Melillo suggested they make sure they can get a quorum for Thursday night since Mr. Hawley has already let them know by e-mail that he cannot make that meeting. Chairman Haddad asked if any of the Commission members, except Mr. Hawley, were unavailable and all indicated they could make it. He then asked for a motion to continue the public hearing for final comments and rebuttal from Attorney Hollister and possibly from staff.

Mr. Almeida made a motion to continue this public hearing until the special meeting on Thursday, November 18, 2021. Mr. Hawley seconded the motion and it was passed unanimously by voice vote with nine ayes (from Mr. Almeida, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Jowdy, Mr. Kelly, Mr. Masi, Mr. Melillo, and Chairman Haddad)

Chairman Haddad noted that there was nothing listed under Old Business, New Business, Correspondence, or For Reference Only. He asked if there was anything to discuss under Other Matters and there was nothing.

At 12:10 AM with no further business to discuss, Mrs. Fay made a motion to adjourn. Mr. Almeida seconded the motion and it was passed unanimously by voice vote with nine ayes.

(from Mr. Almeida, Mrs. Fay, Mr. Hawley, Mrs. Hylenski, Mr. Jowdy, Mr. Kelly, Mr. Masi, Mr. Melillo, and Chairman Haddad).

Respectfully submitted,



JoAnne V. Read
Planning Assistant